

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION**

Vonnie Darin Darby,)	
)	
Plaintiff,)	
)	ORDER
vs.)	
)	
Don Redmann, Warden,)	
Jennifer Peoppel, CCW,)	
Tim Schuetzle, Warden,)	
)	Case No. 3:09-cv-013
Defendants.)	

The plaintiff, Vonnie Darin Darby (Darby), initiated the above-entitled § 1983 action *pro se* on February 3, 2009. He contemporaneously filed with the court a motion requesting court-appointed counsel, which the court denied in an order dated March 30, 2010. He appealed the court's decision to the Eighth Circuit in April 2009. The Eighth Circuit rejected his appeal and summarily affirmed the court's decision on January 12, 2009. Its mandate was issue on February 5, 2010. Meanwhile, on May 6, 2009, Defendants filed a Motion to Dismiss, to which Darby has yet to respond.

It is doubtful that the aforementioned interlocutory appeal divested this court of jurisdiction over Defendants' pending Motion to Dismiss and the deadline for filing a response to Defendants' motion may have lapsed. Nevertheless, given the nature of the interlocutory appeal, the court recognizes there may have been some confusion on Darby's part as to when his response was due. The court shall therefore extend his deadline for filing a response to Defendants' motion until March 5, 2010.

IT IS SO ORDERED.

Dated this 16th day of February, 2010.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr.
United States Magistrate Judge